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Supreme Court of the United States

OCTOBER TERM, 1966.

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FILED
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JOHN F. DAVIS, CLERK

No. 426

BARNEY M. GILES,
Appellant,

versus

FRIENDLY FINANCE COMPANY OF BILOXI, INC., AND ACCEPTANCE CORPORATION OF MISSISSIPPI,
Appellees.

JOHN HART AND ROSENA J. HART,
Appellants,

versus

GUARANTY LOAN CORPORATION OF MISSISSIPPI, ET AL.,
Appellees.

JOHN HART, JR. AND JOSIE HART,
Appellants,

versus

BRUCE CORNELL, TRUSTEE, ET AL.,
Appellees.

MOTION TO DISMISS OR AFFIRM FILED ON BEHALF OF APPELLEES IN THE CASE OF JOHN HART, ET UX VS. GUARANTY LOAN CORPORATION OF MISSISSIPPI, ET AL., AND IN THE CASE OF JOHN HART, JR., ET UX VS. BRUCE CORNELL, TRUSTEE, ET AL.

CHARLES B. HENLEY,
P. O. Box 326,
Jackson, Mississippi,
Attorney for Appellees,
ALBERT SIDNEY JOHNSTON, JR.,
3-5 Schwan Building,
Biloxi, Mississippi,
Attorney for Appellants.

IN THE SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1966.

No. 426.

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versus

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Now come the appellees in the cases referred to in the title of this motion through the undersigned counsel and respectfully file this motion to dismiss or affirm, said motion to affirm being united in the alternative with said motion to dismiss, and in support of said motion would respectfully show unto the Court as follows:

1.

The jurisdictional statement and attempt to appeal the cases involved in this motion from a decision of the Supreme Court of the State of Mississippi to the United States Supreme Court is not within the jurisdiction of the United States Supreme Court and has not been taken in conformity to statutes or to the rules of said Court.

2.

The issues presented by the jurisdictional statement and the attempt to appeal to the United States Supreme Court from a decision of the Supreme Court of the State of Mississippi do not present a substantial federal question, and said decision of the Mississippi State Supreme Court rests on an adequate non-federal basis.

3.

It is manifest that the questions on which the decision of the cause in the Supreme Court of the State of Mississippi are so unsubstantial as not to need further argument or review.

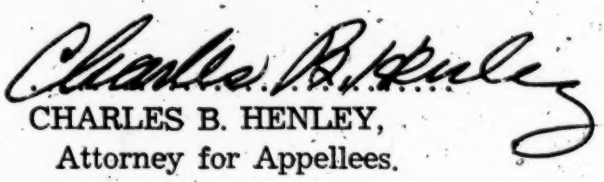
4.

It is apparent that the attorney representing the appellants has from a practical standpoint confessed that he

does not have proper jurisdictional grounds for this appeal by filing an application for extension of time to petition for certiorari, said application having been filed under date of August 26, 1966, and stating on the face thereof that the Mississippi Supreme Court has emphatically stated in the opinion rendered by said Court that it would not avail appellants anything if that Court held the statute unconstitutional as to them, because appellants would still be faced with the application of Section 5590 of the Mississippi Code of 1942, as amended by the laws of 1958, and by the Mississippi cases holding that persons who obtain loans for borrowers may charge brokerage fees, and the addition of such fees to the amount of the loan to be repaid by such borrowers would not make the loans usurious.

Therefore, the appellees whose names are set out in the above styled motion respectfully move that this case be dismissed, or that in the alternative, the decision of the Supreme Court of the State of Mississippi be affirmed.

Respectfully submitted,



CHARLES B. HENLEY,
Attorney for Appellees.

HENLEY, JONES & HENLEY,
P. O. Box 326,
Jackson, Mississippi,
Of Counsel.

PROOF OF SERVICE.

I, Charles B. Henley, attorney for the appellees whose names are set out in the foregoing styled motion, and a member of the Bar of the Supreme Court of the United States, hereby certify that I have this day mailed by first class mail with postage prepaid a true and correct copy of the foregoing Motion to Dismiss or Affirm to Hon. Albert Sidney Johnston, Jr., 3-5 Schwan Building, Biloxi, Mississippi, attorney of record for appellants.

This the 28th day of September, 1966.

Charles B. Henley

CHARLES B. HENLEY.